

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Tariff Filing
Requirements for
Nondominant
Common Carriers

CC Docket No. 93-36

To: The Commission

REPLY COMMENTS OF ALLNET COMMUNICATION SERVICES

Allnet Communication Services, Inc. (Allnet), agrees with those
commenting parties who oppose "range" tariffs, or any other "tariffs" which fail

to set forth the rates that will be applied to customers. A number of parties also

[a] pipeline discounting any service from the maximum rate must, within 15 days of the close of the billing cycle, report the maximum rate for the transaction, the rate actually charged, the shipper's identity, and any corporate affiliation between the pipeline and the shipper. 18 C.F.R. 284.7(d)(5).

[(emphasis added), Id. at 1007.]

Thus, given that tariffing is now required for non-dominant carriers, there is no room for a view that a range-type tariff, without reporting of customer-specific rates, would be lawful. This view is supported by Regular Common Carrier Conference v United States, 793 F.2d 376 (D.C. Cir. 1986). That case cited 49 U.S.C. 10761, that parallels 47 U.S.C. 203, which specifically requires that the carrier charge the rate contained in the carrier's tariff. The Court noted that the modification provisions of statute could not be "used so expansively as to nullify" the ICA's Section 203-like requirement for a "rate....contained in a tariff." The court stated that the essential question is whether there is a "filed rate." Clearly, if there is only a range within which possible rates may exist, there is no way of being able to look at a "range"-type tariff to determine which of the infinite number of possible rates between the minimum and maximum rate is the "filed rate." Customers cannot look at a range tariff and determine what rate they should be charged, and whether they are being charged the proper rate.

It would be bad public policy for the Commission to adopt a standard for tariffing which would be so legally-uncertain as to run a large risk of being overturned by the Court of Appeals. The case law clearly does not support the use of rate ranges without customer-specific reporting of rates. Without at least such customer-specific rate reporting, rate ranges should not be allowed.


Moreover, given that competition in the interLATA markets is more robust than before, there are pro-competitive benefits to requiring that all rates be

published.² Specifically, with the growth in competition, the ability of competitors

to act in collusion by knowing each other's rates is significantly lessened

Certificate of Service

I, Roy L. Morris, hereby certify that I have caused to be serve this day, April 19, 1993, a copy of the forgoing Reply to the parties listed on this service list by first class mail, postage prepaid.

A handwritten signature in cursive script, appearing to read "Roy L. Morris".

Roy L. Morris

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